

Public Law 105-132
105th Congress

An Act

To provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes.

Dec. 2, 1997

[S. 156]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Lower Brule
Sioux Tribe
Infrastructure
Development
Trust Fund Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) under the Act of December 22, 1944, commonly known as the "Flood Control Act of 1944" (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Fort Randall and Big Bend projects are major components of the Pick-Sloan Missouri River Basin program, and contribute to the national economy by generating a substantial amount of hydropower and impounding a substantial quantity of water;

(3) the Fort Randall and Big Bend projects overlie the eastern boundary of the Lower Brule Indian Reservation, having inundated the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most productive agricultural and pastoral lands of the Lower Brule Sioux Tribe and the homeland of the members of the Tribe;

(4) Public Law 85-923 (72 Stat. 1773 et seq.) authorized the acquisition of 7,997 acres of Indian land on the Lower Brule Indian Reservation for the Fort Randall project and Public Law 87-734 (76 Stat. 698 et seq.) authorized the acquisition of 14,299 acres of Indian land on the Lower Brule Indian Reservation for the Big Bend project;

(5) Public Law 87-734 (76 Stat. 698 et seq.) provided for the mitigation of the effects of the Fort Randall and Big Bend projects on the Lower Brule Indian Reservation, by directing the Secretary of the Army to—

(A) as necessary, by reason of the Big Bend project, protect, replace, relocate, or reconstruct—

(i) any essential governmental and agency facilities on the reservation, including schools, hospitals, offices of the Public Health Service and the Bureau of Indian Affairs, service buildings, and employee quarters existing at the time that the projects were carried out; and

(ii) roads, bridges, and incidental matters or facilities in connection with those facilities;

(B) provide for a townsite adequate for 50 homes, including streets and utilities (including water, sewage, and electricity), taking into account the reasonable future growth of the townsite; and

(C) provide for a community center containing space and facilities for community gatherings, tribal offices, tribal council chamber, offices of the Bureau of Indian Affairs, offices and quarters of the Public Health Service, and a combination gymnasium and auditorium;

(6) the requirements under Public Law 87-734 (76 Stat. 698 et seq.) with respect to the mitigation of the effects of the Fort Randall and Big Bend projects on the Lower Brule Indian Reservation have not been fulfilled;

(7) although the national economy has benefited from the Fort Randall and Big Bend projects, the economy on the Lower Brule Indian Reservation remains underdeveloped, in part as a consequence of the failure of the Federal Government to fulfill the obligations of the Federal Government under the laws referred to in paragraph (4);

(8) the economic and social development and cultural preservation of the Lower Brule Sioux Tribe will be enhanced by increased tribal participation in the benefits of the Fort Randall and Big Bend components of the Pick-Sloan Missouri River Basin program; and

(9) the Lower Brule Sioux Tribe is entitled to additional benefits of the Pick-Sloan Missouri River Basin program.

SEC. 3. DEFINITIONS.

In this Act:

(1) **FUND.**—The term “Fund” means the Lower Brule Sioux Tribe Infrastructure Development Trust Fund established under section 4(a).

(2) **PLAN.**—The term “plan” means the plan for socioeconomic recovery and cultural preservation prepared under section 5.

(3) **PROGRAM.**—The term “Program” means the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(5) **TRIBE.**—The term “Tribe” means the Lower Brule Sioux Tribe of Indians, a band of the Great Sioux Nation recognized by the United States of America.

SEC. 4. ESTABLISHMENT OF LOWER BRULE SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.

(a) **LOWER BRULE SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.**—There is established in the Treasury of the United States a fund to be known as the “Lower Brule Sioux Tribe Infrastructure Development Trust Fund”.

(b) **FUNDING.**—Beginning with fiscal year 1998, and for each fiscal year thereafter, until such time as the aggregate of the amounts deposited in the Fund is equal to \$39,300,000, the Secretary of the Treasury shall deposit into the Fund an amount equal to 25 percent of the receipts from the deposits to the Treasury of the United States for the preceding fiscal year from the Program.

(c) **INVESTMENTS.**—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) **PAYMENT OF INTEREST TO TRIBE.**—

(1) **ESTABLISHMENT OF ACCOUNT AND TRANSFER OF INTEREST.**—The Secretary of the Treasury shall, in accordance with this subsection, transfer any interest that accrues on amounts deposited under subsection (b) into a separate account established by the Secretary of the Treasury in the Treasury of the United States.

(2) **PAYMENTS.**—

(A) **IN GENERAL.**—Beginning with the fiscal year immediately following the fiscal year during which the aggregate of the amounts deposited in the Fund is equal to the amount specified in subsection (b), and for each fiscal year thereafter, all amounts transferred under paragraph (1) shall be available, without fiscal year limitation, to the Secretary of the Interior for use in accordance with subparagraph (C).

(B) **WITHDRAWAL AND TRANSFER OF FUNDS.**—For each fiscal year specified in subparagraph (A), the Secretary of the Treasury shall withdraw amounts from the account established under paragraph (1) and transfer such amounts to the Secretary of the Interior for use in accordance with subparagraph (C). The Secretary of the Treasury may only withdraw funds from the account for the purpose specified in this paragraph.

(C) **PAYMENTS TO TRIBE.**—The Secretary of the Interior shall use the amounts transferred under subparagraph (B) only for the purpose of making payments to the Tribe.

(D) **USE OF PAYMENTS BY TRIBE.**—The Tribe shall use the payments made under subparagraph (C) only for carrying out projects and programs pursuant to the plan prepared under section 5.

(3) **PROHIBITION ON PER CAPITA PAYMENTS.**—No portion of any payment made under this subsection may be distributed to any member of the Tribe on a per capita basis.

(e) **TRANSFERS AND WITHDRAWALS.**—Except as provided in subsection (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 5. PLAN FOR SOCIOECONOMIC RECOVERY AND CULTURAL PRESERVATION.

(a) **PLAN.**—

(1) **IN GENERAL.**—The Tribe shall, not later than 2 years after the date of enactment of this Act, prepare a plan for the use of the payments made to the Tribe under section 4(d)(2). In developing the plan, the Tribe shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(2) **REQUIREMENTS FOR PLAN COMPONENTS.**—The plan shall, with respect to each component of the plan—

(A) identify the costs and benefits of that component; and

(B) provide plans for that component.

(b) **CONTENT OF PLAN.**—The plan shall include the following programs and components:

(1) **EDUCATIONAL FACILITY.**—The plan shall provide for an educational facility to be located on the Lower Brule Indian Reservation.

(2) **COMPREHENSIVE INPATIENT AND OUTPATIENT HEALTH CARE FACILITY.**—The plan shall provide for a comprehensive inpatient and outpatient health care facility to provide essential services that the Secretary of Health and Human Services, in consultation with the individuals and entities referred to in subsection (a)(1), determines to be—

(A) needed; and

(B) unavailable through facilities of the Indian Health Service on the Lower Brule Indian Reservation in existence at the time of the determination.

(3) **WATER SYSTEM.**—The plan shall provide for the construction, operation, and maintenance of a municipal, rural, and industrial water system for the Lower Brule Indian Reservation.

(4) **RECREATIONAL FACILITIES.**—The plan shall provide for recreational facilities suitable for high-density recreation at Lake Sharpe at Big Bend Dam and at other locations on the Lower Brule Indian Reservation in South Dakota.

(5) **OTHER PROJECTS AND PROGRAMS.**—The plan shall provide for such other projects and programs for the educational, social welfare, economic development, and cultural preservation of the Tribe as the Tribe considers to be appropriate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act, including such funds as may be necessary to cover the administrative expenses of the Fund.

SEC. 7. EFFECT OF PAYMENTS TO TRIBE.

(a) **IN GENERAL.**—No payment made to the Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

(b) **EXEMPTIONS; STATUTORY CONSTRUCTION.**—

(1) **POWER RATES.**—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

(2) **STATUTORY CONSTRUCTION.**—Nothing in this Act may be construed as diminishing or affecting—

- (A) any right of the Tribe that is not otherwise addressed in this Act; or
- (B) any treaty obligation of the United States.

Approved December 2, 1997.

LEGISLATIVE HISTORY—S. 156:

SENATE REPORTS: No. 105-146 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 143 (1997):

Nov. 9, considered and passed Senate.
Nov. 13, considered and passed House.